

1 STATE OF NEW YORK  
2 PUBLIC SERVICE COMMISSION

3 In the Matter of Case No. 00-C-1945

4 Proceeding on Motion of the Commission  
5 to Consider Cost Recovery by Verizon and  
6 to Investigate the Future Regulatory  
Framework

7  
8 EVIDENTIARY HEARING

9 19th Floor Board Room  
10 Public Service Commission  
11 Three Empire State Plaza  
Albany, New York

12 Tuesday, February 19, 2002  
13 9:30 a.m.

14 PRESIDING:

15 MAUREEN O. HELMER

16 Chairman of the Commission AND

17 JUDITH A. LEE

18 Chief Administrative Law Judge  
19  
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23  
24  
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## 1           APPEARANCES:

## 2                   For Verizon:

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## 6                   For the Public Service Department Staff:

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9                   JANET HAND DEIXLER  
10                  Secretary

## 11                  For Bridgecom International:

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## 14                  For WorldCom, Inc.:

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## 18                  For Public Utility Law Project:

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23                  For Allegiance Telecom of New York, Inc.,  
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25

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3 99 Washington Avenue, Suite 2020  
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5 For Z-Tel:

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For AT&T:

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1 P R O C E E D I N G S

2 MS. LEE: Good morning. I'd like  
3 to call Case 00-C-1945, a proceeding on the  
4 motion of the Commission to consider the cost of  
5 recovery by Verizon and to investigate the  
6 future regulatory framework.

7 I am Judge Lee, the Chief  
8 Administrative Law Judge for the Public Service  
9 Commission, and this is Chairman Helmer,  
10 chairman of the Public Service Commission, who  
11 will be presiding over this hearing.

12 I want to remind people that the  
13 hearing will be broadcast live on the internet,  
14 and I'd like to remind all parties and witnesses  
15 to turn off the microphones when they're not in  
16 use so your conversations may not inadvertently  
17 be broadcast over the internet. The other  
18 request we've had from the broadcasters is if  
19 the witnesses and attorneys could speak clearly  
20 into the microphones, that would assist the  
21 internet broadcast.

22 The principal purpose of this  
23 hearing, as stated in the notice that was issued  
24 February 11th, is to allow for the examination  
25 of witnesses regarding matters in consideration

1 in this proceeding.

2 I'd like to start by taking  
3 appearances for the record, starting with  
4 staff.

5 MR. MCGOWAN: Yes. Good  
6 morning. Peter McGowan. With me is Janet  
7 Deixler.

8 MS. THORN: I'm Sandra DiIorio  
9 Thorn, with Verizon, New York, and with me is  
10 Robert H. Levin.

11 MR. WILES: Yes, your Honor. My  
12 name is Ben Wiles, and I'm with the Public  
13 Utility Law Project.

14 MR. FITZGERALD: The law firm of  
15 LeBoeuf, Lamb, Greene & MacRae, by Brian  
16 Fitzgerald, for for Allegiance Telecom of New  
17 York, Inc., Focal Communications Corporation of  
18 New York and Time Warner Telecom-New York LLP.

19 MR. ROLAND: On behalf of  
20 Bridgecom International, Keith --

21 MS. LEE: Could you speak a  
22 little clearer. The reporter is having some  
23 difficulty.

24 MR. ROLAND: On behalf of Bridge-  
25 com International, Roland, Fogel, by Keith

1 Roland.

2 MR. HAZZARD: On behalf of Z-Tel  
3 Telecommunications, Inc., the law firm of  
4 Kelley, Drye & Warren LLP, by Michael B.  
5 Hazzard.

6 MR. GROVES: Good morning, your  
7 Honors. I'm Curtis Groves with WorldCom, Inc.

8 MS. LEE: You're welcome to sit  
9 at that table, Mr. Groves, if you will be more  
10 comfortable.

11 MR. GROVES: Actually, your Honor,  
12 I'm more comfortable back here.

13 On behalf of AT&T, Robert Mulvey;  
14 joining me momentarily will be Harry Davidow.

15 MS. LEE: Are there any more  
16 appearances of parties?

17 Hearing none, we'll proceed. Are  
18 there any preliminary matters that parties would  
19 like to raise before we start with  
20 cross-examination of witnesses?

21 My understanding is that there  
22 was a piece of late filed testimony from Choice  
23 One and that it was sent by e-mail late on  
24 Friday the 15th, and I assume that the witness  
25 is available for cross-examination if parties

1 are interested.

2 MR. FITTS: Yes, I am. I'm David  
3 Fitts, from Choice One Communications.

4 MS. LEE: Thank you. I'd like to  
5 start with the Veri... the proponents being  
6 available for cross-examination starting with  
7 Verizon and then going to staff.

8 My understanding is that the only  
9 cross that has been requested as of this time  
10 was by Time Warner, who requested 15 minutes of  
11 staff, Z-Tel asking for less than 30 minutes of  
12 Verizon, and I think possibly Choice One, but I  
13 wasn't sure about that, and Bridgecom who said  
14 they had 20 minutes of clarifying questions for  
15 the proponents; is that correct?

16 Is there anyone else who has any  
17 cross-examination?

18 MR. FITZGERALD: Your Honor, this  
19 is Brian Fitzgerald for Time Warner, of LeBoeuf  
20 Lamb. I don't believe that I will have any  
21 cross for staff today.

22 MS. LEE: Thank you so that  
23 leaves Bridgecom and Z-Tel with some questions,  
24 is that correct?

25 What I thought would be a good

1 way to start would be to mark the Joint Proposal  
2 and the signature pages as Exhibit Number 1 for  
3 the record since that's what this proceeding is  
4 about. Staff, do you have copies of this Joint  
5 Proposal with the signature pages?

6 MR. MCGOWAN: Yes.

7 MS. LEE: So Exhibit Number 1  
8 will be the Joint Proposal concerning the  
9 Verizon Incentive Plan for New York, dated  
10 February 8, 2002 with accompanying signature  
11 pages.

12 If there's nothing else before we  
13 begin, I'd like Verizon to call its panel of  
14 witnesses, please.

15 MS. THORN: Thank you, your  
16 Honor.

17 MS. LEE: Before you take the  
18 witness chairs, please stand. Stand and raise  
19 your right hands, please. Do you solemnly swear  
20 or affirm that the testimony you are about to  
21 give is the truth, the whole truth and nothing  
22 but the truth.

23 MR. CROTTY: Yes, your Honor.

24 MS. THORN: Your Honor, two of  
25 the original panel members will be unable to



1           come before the hearing, and accordingly their  
2           testimony will be adopted by other witnesses.  
3           Paul Crotty will replace Mr. Geoffrey Gould and  
4           will adopt his testimony as his own, and  
5           Christopher Callahan will replace John Killian  
6           and will adopt his testimony as his own.

7                     PAUL A. CROTTY, WILLIAM E. TAYLOR,  
8                     PATRICK A. GARZILLO, CHRISTOPHER B.  
9                     CALLAHAN and EDWIN F. HALL

10           called as witnesses on behalf of Verizon, each  
11           having been first duly sworn, were examined and  
12           testified as follows:

13           EXAMINATION BY MS. THORN:

14       Q.   Panel members, do you have before you a document  
15           dated May 15, 2001 entitled Panel Testimony of  
16           Verizon, New York on behalf of the Verizon  
17           Incentive Plan for New York?

18                     MR. HALL:   Yes.

19       Q.   If I were to ask you those questions today,  
20           would your answers be the same as in the  
21           document?

22                     MR. CALLAHAN:   Yes.

23                     MR. TAYLOR:   Yes.

24                     MS. LEE:   Are there any  
25           corrections to the testimony?

1 MR. CALLAHAN: Yes, I have one  
2 question.

3 MS. LEE: I think it would help  
4 the reporter if you identify yourselves for the  
5 reporter.

6 MR. CALLAHAN: Christopher  
7 Callahan. I have a correction to the January  
8 initial testimony on page 105, line 17. The  
9 number appears there, 524; should be corrected  
10 to 542. And on line 18 the number appears  
11 there, 7; should be corrected to 25. Has to do  
12 with the number of wire centers, the number of  
13 wire centers where collocation occurs.

14 MS. THORN: Your Honor, I ask  
15 that this testimony be accepted into the record  
16 as if provided orally today.

17 MS. LEE: The Verizon testimony  
18 will be adopted into the record as if given  
19 orally.

20 (The prepared testimony of the  
21 Verizon panel described above follows:)

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1 BY MS. THORN:

2 Q. Panel members, do you have before you the  
3 exhibit that accompanied the May 15 testimony  
4 entitled "Exhibit in Support of Initial Filed  
5 Testimony of Verizon, New York, Inc., on the  
6 Verizon Incentive Plan for New York?"

7 MR. GARZILLO: Yes, we do.

8 Q. Was that exhibit prepared by you or under your  
9 supervision and control?

10 MR. GARZILLO: Yes, it was.

11 Q. Is it true, to the best of your knowledge and  
12 belief?

13 MR. GARZILLO: Yes, it is.

14 Q. Are there any corrections necessary to this  
15 exhibit?

16 MR. GARZILLO: No corrections.

17 MS. THORN: Your Honor, I ask  
18 that the redacted version of this testimony be  
19 accepted for identification. I also ask that the  
20 proprietary version of the exhibit be marked as  
21 an exhibit and entered into the proprietary  
22 record.

23 MS. LEE: Does the reporter have  
24 a copy of that exhibit?

25 MS. THORN: Yes.

1 MS. LEE: So Exhibit Number 2  
2 will be a redacted exhibit on behalf of Verizon  
3 and Exhibit Number 2-A, the proprietary, will be  
4 marked.

5 MS. THORN: One moment, your  
6 Honor. There seems to be some confusion with the  
7 proprietary and non-proprietary version.

8 (There was a discussion off the  
9 record.)

10 MS. LEE: At the moment all we  
11 have in the record is the initial panel  
12 testimony for this panel of witnesses, the panel  
13 testimony.

14 BY MS. THORN:

15 Q. Panel members, do you have before you the  
16 exhibit that accompanied the initial prefiled  
17 testimony entitled "Exhibit in Support of  
18 Initial Panel Testimony of Verizon New York  
19 Inc., on the Verizon Incentive Plan for New  
20 York?"

21 MR. GARZILLO: Yes, we do.

22 Q. Was that exhibit prepared under your supervision  
23 and control?

24 MR. GARZILLO: Yes, it was.

25 Q. Is it true and accurate, to the best of your

1 knowledge and belief?

2 MR. GARZILLO: Yes, it is.

3 Q. Are there any corrections necessary to this  
4 exhibit?

5 MR. GARZILLO: No.

6 MS. THORN: Your Honor, I ask  
7 that the public redacted version of this exhibit  
8 be marked for identification.

9 MS. LEE: What I have in front of  
10 me is entitled "Exhibit in Support of Initial  
11 Panel Testimony of Verizon New York Inc., on the  
12 Verizon Incentive Plan for New York." It states  
13 Part A, Redacted Version, Part B and Part C.  
14 That will be marked for identification as  
15 Exhibit Number 2.

16 MS. THORN: I also asked that the  
17 non-public proprietary version of this exhibit  
18 be marked as such and entered into the  
19 proprietary record.

20 MS. LEE: I have before me a  
21 document marked "Exhibit in Support of Initial  
22 Panel Testimony of Verizon New York, Inc. on the  
23 Verizon Incentive Plan for New York," Part A,  
24 Proprietary Version, Part B, Part C and Part D,  
25 and that will be marked as Exhibit 2A for the

1           proprietary record which will be bound  
2           separately from the public record.

3           BY MS. THORN:

4       Q.   Dr. Taylor, do you have before you a document  
5           dated May 15, 2001 entitled "Initial Panel  
6           Testimony of Verizon New York, Inc. on the New  
7           York Competitive Marketplace?"

8                       DR. TAYLOR:  Yes, I do.

9       Q.   If I were to ask you the questions today, would  
10          your answers be the same as in that document?

11                      DR. TAYLOR:  Yes, they would.

12       Q.   Are there any corrections to that testimony?

13                      DR. TAYLOR:  No, there are not.

14                      MS. THORN:  I believe Dr. Gordon  
15          was also a member of that panel and there was no  
16          cross anticipated for Dr. Gordon today. I have  
17          also an affidavit from Dr. Gordon to affirm that  
18          testimony. I ask that his affidavit be accepted  
19          in lieu of his appearance here today.

20                      MS. LEE:  You would like this  
21          affidavit marked as an exhibit? Do you have  
22          copies of it?

23                      I have before me an affidavit  
24          from Kenneth Gordon, sworn on February 15, 2002,  
25          stating that his previous testimony dated May

1           15, 2001 should be adopted as his sworn  
2           testimony given under oath, and I mark that  
3           affidavit as Exhibit Number 3 for this session  
4           today.

5                       MS. THORN: Your Honor, I also  
6           ask that the non-public proprietary version of  
7           this testimony be marked as such and entered  
8           into the proprietary record. Did I not give you  
9           the public version first now?

10                      MS. LEE: What I have before me  
11           is a redacted version of the Initial Panel  
12           Testimony of Verizon New York Inc., on the New  
13           York Competitive Marketplace by Keneth Gordon  
14           and William Taylor, dated May 15, 2001, and  
15           you're asking that this be admitted into the  
16           record.

17                      MS. THORN: As if given orally  
18           today.

19                      MS. LEE: Based on the affidavit  
20           of Dr. Gordon, that will be accepted into the  
21           record.

22                      MS. THORN: And Dr. Taylor is here  
23           today.

24                      (The panel testimony on the New  
25           York Competitive Marketplace follows:)

1 MS. LEE: That will be entered  
2 into the record.

3 MS. THORN: I also have a non-  
4 public proprietary record of that testimony that  
5 I would like to introduce and ask it be marked  
6 into the proprietary record.

7 MS. LEE: The proprietary version  
8 of the testimony by Mr. Kenneth Gordon and Dr.  
9 William D. Taylor will be entered into a  
10 separate record marked "proprietary" as Exhibit  
11 Number 4.

12 BY MS. THORN:

13 Q. Dr. Taylor, do you have before you the exhibit  
14 that accompanied the May 15th testimony entitled  
15 "Exhibit in Support of Initial Panel Testimony  
16 of Verizon New York on the New York Competitive  
17 Marketplace?"

18 DR. TAYLOR: Yes, I do.

19 Q. Was that exhibit prepared by you or under your  
20 supervision and control?

21 A. Yes, it was.

22 Q. Is it true and accurate, to the best of your  
23 knowledge.

24 DR. TAYLOR: Yes.

25 MS. THORN: Your Honor, I'd like



1 to enter the redacted public version of that  
2 exhibit into the record.

3 MS. LEE: It will be marked for  
4 identification as Exhibit Number 4, the document  
5 that is entitled Exhibit in Support of Initial  
6 Panel Testimony of Verizon New York on the New  
7 York Competitive Marketplace, and listed as Part  
8 A, B, C; D stating "redacted version", E states  
9 "redacted version", F, G, H, and I states  
10 "redacted version". That would be Exhibit  
11 Number 4.

12 MS. THORN: I would also like to  
13 offer into the record the non-public proprietary  
14 version of that exhibit, your Honor, and ask  
15 that it be filed in the proprietary record.

16 MS. LEE: The proprietary version  
17 of that exhibit will be marked for  
18 identification as Exhibit Number 4-A and will be  
19 entered into the proprietary record and will be  
20 bound separately from the public version of this  
21 record.

22 MS. THORN: Your Honor, since  
23 there was no cross-examination anticipated for  
24 the testimony of Dr. Alfred E. Kahn, I have an  
25 affidavit from Dr. Kahn attesting to his

1 testimony dated May 15, 2001, entitled Initial  
2 Testimony of Alfred E. Kahn on Behalf of Verizon  
3 New York, Inc. I ask this affidavit be accepted  
4 and his testimony be included into the record as  
5 if given orally today.

6 MS. LEE: I have before me an  
7 affidavit from Alfred E. Kahn sworn to on  
8 February 15, 2002, adopting his testimony as his  
9 sworn testimony as if given under oath. That  
10 will be marked for identification as Exhibit  
11 Number 5. The initial testimony of Alfred E.  
12 Kahn on behalf of Verizon New York Incorporated,  
13 dated May 15, 2001, will be entered into the  
14 record as if given orally.

15 MS. THORN: Your Honor, I also  
16 have an exhibit that accompanied the May 15th  
17 testimony entitled, Exhibit in Support of  
18 Initial Testimony of Alfred E. Kahn on Behalf of  
19 Verizon New York Inc. I ask that this exhibit be  
20 marked for identification.

21 MS. LEE: The exhibit in support  
22 of the initial testimony of Alfred E. Kahn, Part  
23 A, is marked as Exhibit Number 6.

24 (The prepared testimony of Alfred  
25 E. Kahn follows:)

1 BY MS. THORN:

2 Q. Panel members, do you have before you a document  
3 dated February 11, 2002 entitled, "Panel  
4 Testimony of Verizon New York, Inc. on the  
5 Verizon Incentive Plan for New York?"

6 MR. GARZILLO: Yes, we do.

7 Q. If I were to ask you the questions today, would  
8 your answers be the same as in that document?

9 MR. GARZILLO: Yes, they would.

10 Q. Are there any corrections necessary to this  
11 testimony?

12 MR. GARZILLO: No.

13 MS. THORN: Your Honor, I ask  
14 that the testimony be included into the record  
15 as if given orally today.

16 MS. LEE: The panel testimony of  
17 Verizon New York, Inc. dated February 11 --  
18 February 11, 2002 will be admitted into the  
19 record as if given orally.

20 (The prepared testimony of the  
21 panel, as described above, follows:

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1 BY MS. THORN:

2 Q. Panel members, do you have before you the  
3 exhibit that accompanied the February 11  
4 testimony entitled, Exhibit in Support of Panel  
5 Testimony of Verizon New York Inc. on the  
6 Verizon Incentive Plan for New York?.

7 MR. GARZILLO yes, we do.

8 Q. Was that exhibit prepared by you or under your  
9 supervision?

10 MR. GARZILLO: Yes, it was.

11 Q. Is it true and accurate, to the best of your  
12 knowledge and belief?

13 MR. GARZILLO: Yes, it is.

14 Q. Are there any corrections necessary to this  
15 exhibit?

16 DR. TAYLOR: Yes, there are.

17 MR. CALLAHAN: We have a  
18 correction to Exhibit Part C, Schedule 11,  
19 there's a section that has --

20 MS. LEE: Before you get to that,  
21 may I see the exhibit? Sorry to interrupt you,  
22 Mr. Callahan. Please proceed.

23 MR. CALLAHAN: There's a section  
24 there, it's a table of data, one section on PSC  
25 Complaints. There's four numbers that appear

1 12-month rolling averages for PSC Complaints.

2 MS. LEE: What page is that?

3 MR. CALLAHAN: It's Part C,  
4 Schedule 11.

5 MS. THORN: On the last page,  
6 your Honor.

7 MS. LEE: Very last page of the  
8 exhibit?

9 MR. CALLAHAN: The September  
10 number that appears this is 4.8; should be  
11 corrected to 4.1. The October number is 4.7;  
12 should be corrected to 4.9. The November number  
13 is 4.6; should be corrected to 3.8. The December  
14 number is 4.5; should be corrected to 3.6.

15 MS. THORN: Your Honor, I ask  
16 that this exhibit as corrected be marked for  
17 identification.

18 MS. LEE: The exhibit with the  
19 corrections as read into the record on the last  
20 page will be marked for identification as  
21 Exhibit Number 7.

22 MS. THORN: The panel is now  
23 available for cross-examination, your Honor.

24 MS. LEE: Are there attorneys who  
25 wish to question members of the panel?

1 Mr. Roland.

2 MR. ROLAND: Keith Roland of  
3 Roland Fogel.

4 CROSS-EXAMINATION BY MR. ROLAND:

5 Q. Just for some clarifications, if I may. On page  
6 10 of the Joint Proposal, there is a listing or  
7 a discussion of the pricing flexibility  
8 provisions, and there's a list of services where  
9 there will not be upward pricing flexibility  
10 during the term of the plan. Do you have that  
11 reference?

12 MS. LEE: Page 10 of Exhibit  
13 Number 1?

14 MR. ROLAND: Yes.

15 MR. GARZILLO: Yes, we do.

16 Q. All right. Even though the company will not  
17 have the pricing flexibility on its own to  
18 change prices for any of these enumerated  
19 services, will the company retain the authority  
20 to petition the Commission for change in any of  
21 these rates?

22 MR. GARZILLO: Well, I think for  
23 the period of the plan those rates would not  
24 change, but in this environment the company has  
25 the opportunity to make proposals and, you know,

1           at the end of the plan they could be  
2           incorporated too.

3       Q.   But all the focus will be on what will happen  
4           during the term of the plan, so that for the  
5           two-year term, the rates for those services will  
6           be frozen as of what point in time?

7                       MR. GARZILLO:  We think the plan  
8           starts as of March 1st; March 1st 2002.

9       Q.   So whatever rates are in effect as of March 1st,  
10          and you contemplate that will be the new UNE  
11          rates that were approved by the Commission on  
12          the 28th of January?

13                      MR. GARZILLO:  Yes.

14      Q.   Under the prefiling statement, there are four-  
15          and six-year transition periods relating to  
16          pricing and offering of UNE price; is that  
17          correct?

18                      MR. GARZILLO:  Mr. Roland, do you  
19          have a reference?

20      Q.   Well, I don't have the -- the actual prefiling  
21          statement in front of me, but I do have a copy  
22          of the chart which makes reference to a  
23          four-year and six-year transition period, four  
24          years for residential customers in Zone 1 and  
25          business POTS in Zone 1; six years for

1 residential customers in Zone 2 and business  
2 POTS customers in Zone 2.

3 MR. GARZILLO: Maybe I can help.  
4 You're talking about the PFS which is referenced  
5 in the plan.

6 Q. Right.

7 MR. GARZILLO: Yes.

8 Q. That's a prefiling statement by the company. So  
9 you're familiar with those transitions?

10 MR. GARZILLO: Yes.

11 Q. In the company's view, when did the four-year  
12 and six-year transition periods commence?

13 MR. GARZILLO: I think the three  
14 -- pre-filed names April of '98; I could be  
15 corrected. Got to check the date. April 6th,  
16 1998 was the date of filing the pre-filed  
17 statement.

18 Q. And in your view that was the date; the date of  
19 filing of the proposed prefiling statement is  
20 the date upon which the transition period  
21 commenced?

22 MS. THORN: I'm going to put in  
23 an objection to the question. This was not, in  
24 my recollection, a part of any testimony. If  
25 you'd like the answer to that, we'd be more than



1 happy to give it to you; I'd be more than happy  
2 to give it to you, but I don't think that's a  
3 part of cross on the filed testimony.

4 Q. Under the terms of the joint settlement, will  
5 the transition period run out at any time during  
6 the two-year term under the Joint Proposal?

7 MR. CROTTY: I think the answer  
8 to that question is yes.

9 Q. And when would that be so?

10 MR. CROTTY: Well, it would be  
11 some time prior to February 28th of 2004.

12 Q. Do you know at what point in time in the  
13 company's view that would work?

14 MR. CROTTY: I think the starting  
15 point has never been firmly established. We have  
16 certainly no later than the time that we began  
17 to offer long distance in the state of New York  
18 but it may be earlier than that, but it's never  
19 been fixed precisely.

20 Q. Does the company have a view what that date is?

21 MR. CROTTY: Well, certainly no  
22 later than when we went into long distance,  
23 maybe the time of the FCC approval, maybe the  
24 time of the -- of the PSC's approval or of the  
25 statement in support of our long distance

1 application. It maybe the date of the long  
2 distance application before the FCC.

3 Q. The company has not reached any conclusion what  
4 the start date is.

5 MR. CROTTY: That is correct.

6 Q. Am I correct that under the terms of the Joint  
7 Proposal, if the transition period expires at  
8 some point during the two-year plan which you've  
9 indicated it will, then there could be increases  
10 in rates for UNE services for the UNE platform?

11 MR. CROTTY: No.

12 MR. GARZILLO: No, I would say  
13 just the availability.

14 Q. And that's sort of what I would like to follow  
15 up on. The rates for the UNE platform will be  
16 fixed for the two-year duration of the plan?

17 MR. GARZILLO: Yes.

18 Q. Now, -- now, you indicated that availability  
19 will change. How is that? Will availability of  
20 the UNE platform exchange in any way other than  
21 with respect to the 18-line change?

22 MR. GARZILLO: No, I think the  
23 only change we made in the PSF was the 18 lines.  
24 That's Appendix B of the tariff. It would  
25 conform to 18 lines.

1 Q. And just to follow up on that, am I correct in  
2 understanding that under the pre-filing  
3 statement and under the plan, that UNE-P will be  
4 available for residential customers everywhere  
5 in the state without any limit on the lines?

6 MR. GARZILLO: Yes, that was the  
7 case.

8 Q. And am I correct that under the prefiling  
9 statement and under the plan, that UNE-P will be  
10 available for business customers without a limit  
11 on the number of lines, in all central offices  
12 except for the 17 New York City central offices  
13 now listed in your tariff?

14 MR. GARZILLO: As I think I  
15 stated before, we believe modification to the  
16 PFS was the 18 lines in the various offices.

17 Q. So is it correct that the purpose of the UNE-P  
18 provisions in the the pre-filing is to expand  
19 the availability of the UNE platform in all  
20 areas where it is now limited but not intended  
21 in any way to create any limitation on use of  
22 the UNE-P where none exists today?

23 MR. GARZILLO: I have to think  
24 the purpose of the the pre-filing was to expand  
25 the small business limitation amount of your PFS

1           4-18 and that was to imply everything that was  
2           in place already.

3       Q.    So there is no restriction imposed compared to  
4           what's available today, only an expansion with  
5           respect to the 18-line situation?

6                   MR. GARZILLO:   Yes.

7       Q.    And I want to be sure that I heard your answer  
8           to my prior question.  Under the the pre-filing  
9           UNE-P will be available for business customers  
10          without any line limit in all but the 17 New  
11          York central offices regardless of any FCC  
12          rules?

13                   MR. GARZILLO:  You said -- I  
14          think it's more like 30 in Appendix B, I'm not  
15          sure, in the tariff.

16                   MR. CROTTY:  Frankly, I don't  
17          understand "without any line limit".  Would you  
18          tell us what you mean? Obviously the line limit  
19          is going 4-18, but we haven't abandoned every --  
20          the line limit over 18, so obviously there's a  
21          limitation.

22       Q.    O.K. Well, let me focus on that.  Outside of the  
23           central offices listed in your tariff for New  
24           York City, is there any limitation on the number  
25           of UNE-P business lines which the company will

1       make available during the term of the  
2       pre-filing?

3                   MR. GARZILLO: I have to think.  
4       To clear it up, prior to the -- to this, the  
5       pre-filing, we had the four lines, meaning four  
6       lines was not available. Now, what we're doing  
7       is going to 18 lines, and it doesn't mean 18  
8       lines will be available on a continuous basis,  
9       if that's your question. I keep focusing on  
10      your question that 18 lines or less will be  
11      available.

12     Q.   That's not my question, and I have to pursue  
13       it. Under the prefiling statement, was there  
14       any limitation on the number of business lines  
15       that could be served by UNE-P outside of the New  
16       York City offices that were listed in the  
17       tariff?

18                   MR. GARZILLO: Yes, there was.  
19       It was four lines, and then there was also  
20       Appendix C, but that has now been -- Appendix C  
21       was where you had two or more collocators in a  
22       building. That has been suspended for the  
23       period of this plan. If you're familiar with  
24       Tariff E, there are two appendices, Appendix B  
25       being four lines and Appendix C being the

1 multiple lines. So the only thing that changed  
2 in this line, Appendix B, 18 lines and  
3 everything else remains the same, and Appendix C  
4 is now held, you know, dormant until the end of  
5 this plan.

6 Q. And because I need to follow up on that, just  
7 take this piece by piece if you would. Under  
8 the prefiling statement by itself --

9 MR. GARZILLO: Yeah.

10 Q. -- did it not provide that UNE-P would be  
11 available for business customers without line  
12 limit in all of the central offices outside of  
13 those specifically designated going to New York  
14 City where there were two or more collocators?

15 MR. GARZILLO: No. I have to  
16 repeat the answer is no, if I understood your  
17 question. The answer is no.

18 Q. Well, I've read the prefiling statement and I  
19 just didn't see any limitation to under four  
20 lines.

21 MS. THORN: Keith, I'm again  
22 going to object. I'm not sure where this  
23 testimony in their written submission comes in.  
24 I don't think we discussed the PFS,, that was  
25 litigate the before. We have a tariff that